



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Megan Sowards Newton  
Jones Day  
51 Louisiana Avenue, NW  
Washington, DC 20001

**MAY 18 2018**

RE: MUR 7100  
Donald J. Trump, *et al.*

Dear Ms. Sowards Newton:

On July 12, 2016, the Federal Election Commission notified your clients, Donald J. Trump and Donald J. Trump for President, Inc. and Bradley Crate in his official capacity as treasurer, of a Complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). On May 10, 2018, the Commission found, on the basis of the information in the Complaint and information provided by your clients, that there is no reason to believe your clients violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.2 in connection with reimbursing members of Trump's family for travel expenses. As to the remaining allegations against your clients, there was an insufficient number of votes to find reason to believe they violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. A Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran", followed by a horizontal line.

Lynn Y. Tran  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4 **RESPONDENTS:** Donald J. Trump for President, Inc. and MUR 7100  
5 Bradley T. Crate in his official capacity  
6 as treasurer  
7 Donald J. Trump  
8

9 **I. INTRODUCTION**

10 The Complaint alleges that Donald J. Trump and Donald J. Trump for President, Inc. and  
11 Bradley T. Crate in his official capacity as treasurer (the "Committee") (collectively, the  
12 "Respondents") violated the Federal Election Campaign Act of 1971, as amended (the "Act"),  
13 and Commission regulations by converting campaign funds to the personal use of Trump and  
14 members of his family. As explained below, the Commission finds no reason to believe that  
15 Respondents, in connection with payments to Trump family members for campaign travel,  
16 violated the personal use provision.

17 **II. FACTUAL BACKGROUND**

18 At the time of the Complaint's filing, President Donald J. Trump was a candidate for  
19 President and Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as  
20 treasurer was his principal campaign committee. The Complaint alleges, *inter alia*, that Trump  
21 family members personally profited from Committee expenditures, arguing that payments to  
22 Trump's sons for campaign travel constituted personal use.<sup>1</sup> Respondents deny that they violated

<sup>1</sup> Compl. at 7 (July 6, 2016).

1 the Act.<sup>2</sup> They argue the campaign's payments to Trump's family members for travel were  
2 proper because they were for campaign-related activities.<sup>3</sup>

### 3 III. LEGAL ANALYSIS

4 The Commission has determined that a candidate and the candidate's campaign  
5 committee have wide discretion in making expenditures to influence the candidate's election.<sup>4</sup>  
6 However, the candidate and the campaign committee may not convert campaign funds to the  
7 personal use of the candidate or any other person.<sup>5</sup> Campaign funds are converted to personal  
8 use if they are "used to fulfill any commitment, obligation or expense of a person that would  
9 exist irrespective of the candidate's election campaign or individual's duties as a holder of  
10 Federal office."<sup>6</sup> Expenses "that would be incurred even if the candidate was not a candidate"  
11 are considered personal rather than campaign related.<sup>7</sup>

12 Commission regulations list a number of expenditures that constitute *per se* personal use,  
13 but where a specific use is not listed, the Commission determines whether an expense constitutes  
14 personal use "on a case-by-case basis."<sup>8</sup> The Commission has stated, however, that "[i]f the

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<sup>2</sup> Trump and the Committee submitted a joint response. *See* Donald J. Trump for President, Inc. Resp. (Oct. 6, 2016).

<sup>3</sup> *Id.* at 9-10.

<sup>4</sup> *See* Commission Regulations on Personal Use of Campaign Funds, Explanation and Justification, 60 Fed. Reg. 7,862, 7,867 (Feb. 9, 1995) ("1995 Personal Use E&J"); *see also* Advisory Opinion 2011-02 (Brown); Advisory Opinion 2006-07 (Hayworth).

<sup>5</sup> 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.2.

<sup>6</sup> 52 U.S.C. § 30114(b)(2); *see also* 11 C.F.R. § 113.1(g).

<sup>7</sup> 1995 Personal Use E&J at 7,863.

<sup>8</sup> 11 C.F.R. § 113.1(g)(1)(i) and (ii).

1 candidate can reasonably show that the expenses at issue resulted from campaign or officeholder  
2 activities, the Commission will not consider the use to be personal use.”<sup>9</sup>

3 The Complaint alleges that the Respondents violated the Act by reimbursing members of  
4 Trump’s family for travel expenses. Travel expenses are among the type of expenses analyzed  
5 on a case-by-case basis discussed above.<sup>10</sup> The Commission has previously determined that  
6 campaign funds may be used to pay for a candidate’s immediate family members to travel to  
7 participate in campaign events.<sup>11</sup>

8 The Committee reported disbursing \$13,902 to Donald Trump, Jr., and Eric Trump for  
9 “travel expense reimbursement” for the period covered in the Committee’s June 2016 Monthly  
10 Report.<sup>12</sup> The Complaint makes no assertion that the expenses incurred were for anything other  
11 than legitimate campaign-related travel. It makes no claim that Eric Trump or Donald Trump,  
12 Jr., failed to attend campaign-related events. On the contrary, Eric Trump and Donald Trump,  
13 Jr., appear to have played a large role in Donald Trump’s campaign.<sup>13</sup> Accordingly, there is no  
14 information to suggest that the travel reimbursements were made for anything other than *bona*  
15 *fide* campaign travel, and the Commission finds no reason to believe that Respondents, in

<sup>9</sup> 1995 Personal Use E&J at 7,863-64.

<sup>10</sup> 11 C.F.R. § 113.1(g)(1)(ii)(C).

<sup>11</sup> See Advisory Opinion 1996-34 (Thornberry) (approving use of campaign funds for travel costs of spouse and minor children); cf. 1995 Personal Use E&J at 7,866 (“The Commission agrees . . . that [in regard to salary payments] family members should be treated the same as other members of the campaign staff. So long as the family member is providing *bona fide* services to the campaign, salary payments to that family member should not be considered personal use.”).

<sup>12</sup> See 2016 June Monthly Report at 1,614, 1,617-18, Donald J. Trump for President, Inc. (June 20, 2016).

<sup>13</sup> See, e.g., Naomi Lim, *Eric Trump: My Father Started with 'Just About Nothing'*, CNN (Sept. 26, 2016), <http://www.cnn.com/2016/09/23/politics/eric-trump-donald-trump-american-dream/> (“Donald Trump’s children have become prominent surrogates for his unconventional presidential campaign. . .”).

### Factual and Legal Analysis

**Factual and Legal Analysis**  
**MUR 7100 (Donald J. Trump for President, et al.)**

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- 2 and 11 C.F.R. § 113.2.

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